GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri K. Durga Prasad Rao, S/o K.Appa Rao, Kurupam village & Mandal, Vizianagaram District, against the proceedings No. (M).R.Dis.No.810/2007-C5, dated 05.06.2008 of the District Collector, Vizianagaram, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.MS.No. 120 Dated: 02-08-2018
Read the following:

1. Proceedings of the District Collector, Vizianagaram,R.Dis.No. 810/2007-C5, dated 05.06.2008.
2. Appeal Petition filed by Sri K.Durga Prasad Rao S/o K.Appa Rao, Kurupam Village & Mandal, Vizianagaram District, filed before M(TW) , No.956/M(TW&RIAD)/2008, dated 10.09.2008.
3. Govt., Memo No. 7804 /CV.2/2008, dated: 23.10.2008.
4. Orders of the Hon'ble High Court, AP, in WP No.24205/2008, dated 03.12.2008.
5. From the District Collector, Vizianagaram, Lr.No.Rc.No.728/2007 C5, dated 10.07.2009.
6. Govt., Letter No. 7804/CV.2/2008, dated: 10.06.2010.
7. Govt., Memo No. 7804/CV.2/2008, dated 24.06.2015, 17.11.2015, 01.05.2018 & 05.06.2018.

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ORDER:

In the reference 1st read above, the District Collector, Vizianagaram has issued orders cancelling ST-Jatapu caste certificate obtained from the then Tahsildar, Kurupam in the year 1984 by Sri Kuppili Durga Prasad Rao, S/o Appa Rao.

2. In the reference 2nd read above, Sri K. Durga Prasad Rao, S/o K.Appa Rao, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, Vizianagaram. After examining the said Appeal Petition, Government have admitted the Appeal Petition & stay rejected by the Government and called for the parawise remarks and connected records from the District Collector, Vizianagaram in the reference 3rd read above.

3. In the reference 4th read above, Sri K. Durga Prasad Rao, S/o K.Appa Rao has filed W.P.No.24205/2008 before the Hon'ble High Court of Andhra Pradesh, Hyderabad, against the Govt., Memo No. 7804/ CV.2/2008, dated: 23.10.2008, wherein rejected the stay petition filed the petitioner. The Hon'ble High Court of Andhra Pradesh, Hyderabad, while disposing the said W.P. on 03.12.2008 has suspended the orders passed by the District Collector, dated 05.06.2008, pending disposal of the appeal and directed the Government to dispose of the appeal within a period of eight weeks from the date of receipt of the order. But, due to several administrative difficulties the matter could not be disposed off within the time limit as directed by the Hon'ble High Court in the said W.P., however, after giving notices from time to time to the Appellant through her Counsel the matter has been examined by the Appellate Authority.

4. In the reference 5th read above, the District Collector, Vizianagaram has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri K. Durga Prasad Rao, S/o K. Appa Rao.

5. The said Appeal Petition has been posted for hearing on 25.06.2010, 25.07.2015, 28.11.2015, 19.05.2018 & finally on 23.06.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 6th & 7th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The Appellate Authority has conducted final hearing on the said appeal petition on 23.06.2018, but the appellant/ counsel for the appellant were not attended for the hearing/ no representation, in spite of notice served to the appellant.

6. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, Vizianagaram and proceedings of the District Collector, Vizianagaram, dated 05.06.2008, the Appellate Authority is observed that:

I. The appellant in his grounds has stated that the appellant originally hails from Gumma village of Kurupam Mandal of Vizianagaram District & his grandparents belong to Jatapu community and still residing the said Scheduled Area Further, he

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has stated that his parents were illiterates and Tahsildar, Kurupam has issued ST-Jatapu caste certificate after through enquiry in the village and also the relatives of the appellant. The District Collector has passed orders without considering the material available on record and without giving any opportunity to the appellant for adducing evidence to examine the witness on his behalf and he has failed to consider the G.O.Ms.No.371, S.W.(Employment & Welfare B 2) Department, dated 13.04.1976.

II. The District Level Scrutiny Committee has observed that after receiving report from the MRO, Kurupam on the ST-Jatapu Social Status of appellant, the DLSC also verified on the claim of appellant and submitted its findings. The petitioner in his deposition before the Committee has stated that his mother, grandmother and great grandmother belongs to Jatapu-ST and his father and grandfather and great grandfather belongs to Sistikaranam(OC) community, and also deposed that he is following the traditions and customs of Jatapau community as belonging to ST. Further the appellant has not produced any documentary evidence in support of his claim except the caste certificate issued by the Tahsildar, Kurupam. After examining the depositions, the members of DLSC have recommended for cancellation of the Jatapu ST certificate. Basing on the recommendation of the DLSC the Collector, Vizianagaram District has issued notice according opportunity to defend the claim of the petitioner with documentary evidence. On 02.05.2008 the petitioner appeared before the collector, Vizianagaram. Reiterating the earlier deposition, the petitioner stated that the MRO, is issuing the caste certificates to the off-spring children to the lower caste of the parents and accordingly entitled Jatapu ST certificate. Further the case has been examined as per G.O.Ms No. 371, Emp.& Social(b2) Dept., dated 13.4.76 at para 2 and as per Government of India, Guidelines on Inter-caste marriage couples laid down issued in Lr.No.39/37/73 SCT-1, Ministry of Home Affairs, dated 4.3.1975. Legal views on the status of ST community that “the test which will determine the membership of individual will not be the purity of blood but his own conduct in following the customs and the way of life of the tribe; the way in which he has treated by the community and the practices amongst the tribal people in the matter of dealing with persons and that of the community acceptance of the couple. Finally after examining the report of the MRO, Kurupam, and findings of the DLSC and the deposition of the petitioner, the District Collector has cancelled the appellant’s caste certificate.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority is observed that during the course of hearing of the case that the appellant not present and there is no representation for the appellant and proof of service of notice is filed indicating that the notice served on appellant by concern as such the date of hearing is aware by the appellant but he has not turned up and there is no representation on his behalf, on seeing the record the same is pending since several years as such no other go the same is ordered for orders on merits in the absence of the appellant. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the contention of the appellant before the lower authority that his father belongs to Sistakaranam (OC) by caste and mother belongs to Jatapu(ST) and he was given Jatapu (ST) caste certificate basing on his mother caste and also observing the customs and traditions of Jatapu tribes and have relationships with ST caste people. It is observed that as seen from the record that he has no evidence to show that the individual belongs to Jatapu (ST) and further noticed that the individual has no relatives of Jatapu caste and no relations with Jatapu(ST) community people and not observing any traditions and customs of the Jatapu tribes also and he failed to produce any evidence to prove that he belongs to Jatapu caste and the tribal community accepted him. As per the act that the burden of proof lies on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. The appellant failed to produce any evidence to substantiate his contention that he belongs to Jatapu(ST).

V. Further it is observed that as per G.O.Ms.No.371 Employment and Social Welfare (B2) Department dated 13.04.1976 in Annexure-II at para 4 has stated that “in the case of marriage between a tribal with a non-tribal the main factor or consideration is whether the couple were accepted by the tribal society to which the tribal spouse belongs. If he or she, as the case may be, is accepted by the society then their

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children shall be deemed to be Scheduled Tribes. But this situation can normally happen when the husband is a member of the Scheduled Tribe. However, a circumstances may be Scheduled Tribe woman may have children from marriage with a non-Scheduled Tribe man. In that event the children may be treated as Scheduled Tribes only if the members of the Scheduled Tribe community accept them and treat them as members of their own community. In the instant case, the appellant has not produced any relevant documents in-support his community claim **and not brought up in the fold of the Scheduled Tribe community.** As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that there is no infirmity in the findings of the learned District Collector, Vizianagaram District.

7. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Sri K. Durga Prasad Rao, S/o K.Appa Rao, does not deserve any interference. Hence, Proceedings of the District Collector, Vizianagaram issued vide R.Dis.No. 810/2007-C5, dated 05.06.2008, is hereby upheld and the Appeal Petition filed by Sri K. Durga Prasad Rao, S/o K.Appa Rao, is hereby dismissed and the Certificate issued by the then Tahsildar, Kurupam is deemed to be cancelled .

8. The District Collector, Vizianagaram is directed to take necessary consequential action in the matter.

9. The records (containing R.Dis.No. 810/2007-C5, dated 05.06.2008, CF: 1-171) received from the District Collector, Vizianagaram through in the reference 5th read above, are returned herewith in original to the District Collector, Vizianagaram and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Vizianagaram.
(with original records) (BY RPAD)

The Project Officer, ITDA, Parvathipuram.

The M.R.O., Kurupam, Vizianagaram District.

Sri K.Durga Prasad Rao S/o K.Appa Rao,
Kurupam Village & Mandal, Vizianagaram District.

Mr. P.Durga Prasad, Advocate,
Plot No.10, S.RK. Nagar,
Risalagadda, Golconda 'X' Roads, Musheerabad,
Hyderabad- 500 020.

Copy to :
The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE& TWE).
The PS to Principal Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER